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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,220	07/02/2003	Ronald T. Bell	29498/38437A	5746
4743	7590	07/19/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP			BAXTER, GWENDOLYN WRENN	
233 S. WACKER DRIVE, SUITE 6300			ART UNIT	
SEARS TOWER			PAPER NUMBER	
CHICAGO, IL 60606			3632	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,220	Applicant(s) BELL, RONALD T.	
	Examiner Gwendolyn Baxter	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5,7-16 and 18-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 4,5,7-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/22/04 and 10/27/03</u> | 6) <input type="checkbox"/> Other: _____ |

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This is the third Office action of application serial number 10/612,220, Combination Spring Tension Rod and Mounting Brackets for Window Covering, filed July 2, 2003.

Drawings

Acknowledgement is made of the Replacement Sheet of drawings filed on February 18, 2005.

Specification

Acknowledgement is made of the correction to the Specification filed on February 18, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 5, and 7-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, lines 5 and 6, "one end of a spring tension rod" has been changed to ~~one~~ end of the spring tension rod- to reflect the antecedence provided at line 1 of this claim for the terminology "spring tension rod".

In claim 9, line 5, "one each" should read ~~one~~ of each pair of mounting brackets-. A similar problem occurs in claim 14, line 4.

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In claim 12, line 2, "each mounting bracket" should read –each said mounting bracket-, since this terminology has been recited at line 5 of claim 9. Similar corrections are required at lines 13, 14, 16, 17 and 19 of claim 14 and line 3 and 4 of claim 16.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by EPO 0421913 A2 to Schroeder. The present invention reads on Schroeder as follows: Schroeder teaches a bracket assembly comprises a mounting section (1, 4, 5), and a rod interface (2, 6, 7). The mounting section defines a bearing surface (the surface along 1), which faces in a first direction. The rod interface is coupled to the mounting section and faces in a second direction generally opposite the first direction. The rod interface is adapted to connect with one end of the spring tension rod (3). The rod interface is arranged relative to the bearing surface to position the rod interface spaced away from a window opening in a direction generally perpendicular to the first and second directions when the bearing surface is borne against a surface of the window opening. An elbow section (2) is coupled to the mounting section and defines the rod interface. The mounting and elbow sections are separate parts, wherein the mounting section has a male attachment mechanism (4) received in a female receptacle end (near 6) of the elbow section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of U.S. Patent 1,721,306 to Koering. Schroeder teaches the limitations of the base claim, excluding a snap detent feature. Koering teaches a bracket assembly including a snap detent feature (13, 7) feature provided between the attachment mechanism (the portion received in 6) and the receptacle (6). It would have been obvious to one having ordinary skill in the art at the time invention was made to have modified the attachment mechanism and the receptacle as taught by Schroeder to have incorporated the snap detent feature as taught by Koering for retaining the rod within the mounting section.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Foreign Patent EP 962175 A1 to Alaurent. Schroeder teaches the limitations of the base claim, excluding an anti-rotation tab. Alaurent teaches a bracket assembly including an anti-rotation tab. It would have been obvious to one having ordinary skill in the art at the time invention was made to have modified the bearing surface of Schroeder to have incorporated the anti-rotation tab as taught by Alaurent for the purpose stabilizing the bracket assembly when installed against a mounting surface.

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Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of U.S. Patent 833,557 to Snyder. Schroeder teaches the limitations of the base claim, excluding a sharp pointed tang. Snyder teaches a bracket assembly comprises a mounting section (P2), and a rod interface (S). The mounting section defines a bearing surface (the lead line is pointing directing to the bearing surface) in a first direction. The rod interface is coupled to the mounting section and facing in a second direction generally opposite the first direction. The rod interface is adapted to connect with one end of a spring tension rod (D). The rod interface is arranged relative to the bearing surface to position the rod interface spaced away from a window opening in a direction generally perpendicular to the first and second directions when the bearing surface is borne against a surface of the window opening. A sharp pointed tang extends outwardly in the first direction relative to the bearing surface and generally perpendicular to the bearing surface. See figures 2 and 3. It would have been obvious to one having ordinary skill in the art at the time the invention is made to have modified the bearing surface of Schroeder to have incorporated the sharp pointed tang of Snyder for engagement with the woodwork of the window for securing purposes.

Regarding claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the rod as taught by Schroeder to have incorporated the spring tension rod as taught by Snyder, as a mere substitution of functional equivalent part for readily adjusting the length of the rod for a variety of window sizes.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Snyder, in further view of U.S. Patent 1,721,306 to Koering. Schroeder in view of Snyder teaches the limitations of the base claim, excluding a snap detent feature. Koering teaches a

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bracket assembly including a snap detent feature (13, 7) feature provided between the attachment mechanism (the portion received in 6) and the receptacle (6). It would have been obvious to one having ordinary skill in the art at the time invention was made to have modified the attachment mechanism and the receptacle as taught by Schroeder in view of Snyder to have incorporated the snap detent feature as taught by Koering for retaining the rod within the mounting section.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Snyder, in further view of Foreign Patent EP 962175 A1 to Alarent. Schroeder in view of Snyder teaches the limitations of the base claim, excluding an anti-rotation tab. Alarent teaches a bracket assembly including an anti-rotation tab. It would have been obvious to one having ordinary skill in the art at the time invention was made to have modified the bearing surface of Schroeder in view of Snyder to have incorporated the anti-rotation tab as taught by Alarent for the purpose stabilizing the bracket assembly when installed against a mounting surface.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Snyder, in further view of U.S. Patent No. 5,143,336 to McMichael. Schroeder in view of Snyder teaches the limitations of the base claim, excluding a fastener opening. McMichael teaches a bearing surface having a fastening opening therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bearing surface as taught by Schroeder in view of Snyder to have incorporated the fastening opening as taught by McMichael for the purpose of receiving a fastener and further stabilizing the device on the frame of the window.

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Allowable Subject Matter

Claims 19-21 are allowed.

Claim 9-13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

Applicant's arguments with respect to claims 4, 5, 7-16, and 18-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bell 6,598,843 teaches snap in detent.

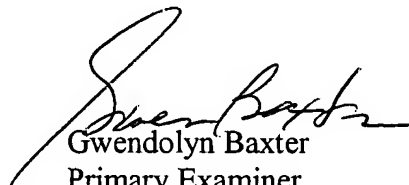
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
Art Unit 3632

July 13, 2005